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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/800,966	03/16/2004	Nicholas D. Moffett VI	19453.01	1400

7590 12/14/2004

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EXAMINER

CHIU, RALEIGH W

ART UNIT PAPER NUMBER

3711

DATE MAILED: 12/14/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/800,966	Applicant(s) MOFFETT ET AL.	
	Examiner Raleigh Chiu	Art Unit 3711	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>3/16/2004</u> . | 6) <input type="checkbox"/> Other: ____. |

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DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary.

Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

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3. Claims 1-3, 5, 6 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Number 5,342,049 (Wichinsky *et al.*, hereinafter Wichinsky).

Regarding claims 1 and 6, Figures 1-6 of Wichinsky show housing 20 with a slot machine in upper section 24 and pinball machine in lower section 22. Also, see Wichinsky at column 2, lines 23-30 and column 3, lines 43 *et seq.* Figures 1-6 further show three slot reels 30 and a pushbutton 25,26; reel button 27 corresponds to the recited initiating play apparatus. In column 5, lines 40-51, Wichinsky describes how the slot machine is automatically switched to a pinball game. To the extent that Wichinsky does not explicitly describe the switching mechanism, it would have been obvious to one of ordinary skill in the art to make it an electro-mechanical one as pinball machines and slot machines are commonly constructed from electro-mechanical parts.

Regarding the indicators, credit display 34 corresponds to the recited second indicator. Although Wichinsky does not refer to an indicator displaying the number of credits bet by a player or the number of credits won by a player, such displays are considered to be common displays on slot machines for additional player information.

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Regarding claim 2, Wichinsky describes a pinball launcher 52 in column 4, lines 61 et seq.

Regarding claims 3 and 6, as similarly set forth above, since Wichinsky describes a potential payout as a result of playing the pinball game (column 5, line 62 through column 6, line 47, it is old and well-known in the slot machine and pinball machine art to display winnings and payout information on indicators for additional player information.

Regarding claims 5 and 8, Wichinsky describes a slot machine initiating push button 27 in column 5, lines 22-39.

4. Claims 4 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wichinsky as applied above in view of U.S. Patent Number 6,203,008 (Krise et al., hereinafter Krise).

Regarding claims 4 and 7, it would have been obvious to one of ordinary skill in the art to substitute a handle for a push button in the Wichinsky game in view of Krise who teaches at column 5, lines 7-23 that it is well-known in the art to use either a handle or a button to initiate play in a slot machine game.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Raleigh Chiu whose telephone number is (571) 272-4408. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Greg Vidovich, can be reached on (571) 272-4415.

The fax number for the organization where this application or proceeding is assigned is (703) 872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'R. Chiu', with a large, stylized flourish at the end.

Raleigh W. Chiu
Primary Examiner
Technology Center 3700

RWC:dei:feif
8 December 2004